IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 9227 of 2005

Between:

J.A.N. Murthy, S/o. Late J.V. Suryanarayana,
R/o. Gouthamnagar, Ferozguda, Secunderabad.

..... PETITIONER

AND

1 The Commissioner, Municipal Corporation of Hyderabad, at Tank Bund Road, Hyderabad.

2 The Asst. City Planner, Town planning Section, Municipal Corporation of Hyderabad, Circle, V, at Khairatabad, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ in the nature of writ of Mandamus or any other appropriate writ or writs, order or direction, declaring and setting aside the Notices dt. 20-4-2005 issued to the petitioner U/s.636 of HMC Act in Lr.No.22/TPS/C5/MCH//2004 and Lr.NO.23/TPS/C5/MCH/2004 on the file of the 2nd respondent, as illegal, arbitrary, without jurisdiction, violative of principles of natural justice, violative of Art. 300-A of the Constitution of India and contrary to the provisions of HMC Act; Award costs and pass such other or further orders as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.K.RAGHUVEER REDDY

Counsel for the Respondents: SMT.G.JYOTHI KIRAN

The Court made the following :

O R D E R:

This writ petition is filed questioning the notices dated 20-04-2005 issued under Section 636 of the Hyderabad Municipal Corporation Act, 1955 (hereinafter referred to as 'the Act').

Under the impugned notices the petitioner was directed to remove the construction-in-question within a period of three days alleging that the same was constructed unauthorisedly. The petitioner states that the allegation as to the unauthorised constructions is incorrect and without any basis.

This writ petition is filed primarily on the ground that the petitioner was not afforded any opportunity to explain the allegation as to the unauthorized constructions and therefore, the impugned action is arbitrary and illegal.

Having regard to the contention of the petitioner, the learned Standing Counsel appearing for the respondent-Corporation states that the respondent will take the necessary action after affording an opportunity to the petitioner against the proposed action.

In the facts and circumstances of the case, the impugned notice dated 20-04-2005 is set aside and the writ petition is disposed of leaving it open to the respondent-Corporation to issue a show-cause notice under Section 452 of the Act and to take appropriate steps, in accordance with law, after affording due opportunity to the petitioner to explain the alleged unauthorised construction. No costs.

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(**G. ROHINI, J**)

Date: 21-04-2005

ghn

To

1 The Commissioner, Municipal Corporation of Hyderabad, at Tank Bund Road, Hyderabad.

2 The Asst. City Planner, Town planning Section, Municipal Corporation of Hyderabad, Circle, V, at Khairatabad, Hyderabad.

3 Two C.D copies.

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.9227 OF 2005

OPERATIVE PORTION (BY WIRE):

In view of the facts and circumstances of the case, the impugned notices dated 20-04-2005 are set aside and the writ petition is disposed of leaving it open to the respondent-Corporation to issue show-cause notice under Section 452 of the Act and to take

appropriate steps, in accordance with law, after affording due opportunity to the petitioner to explain the alleged unauthorised constructions. No costs.

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(**G. ROHINI, J**)

Date: 21-04-2005

Note:

Issue wire at party's costs.

Please send the bundle to the Court Masters Section after dispatch of the wire order.

B/o

ghn